Appl. No. 09/828,140
Amendment dated October 13, 2005
Reply to Office Action of July 13, 2005

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REMARKS/ARGUMENTS

Claims 1-19 remain pending in this application.

Priority

Applicants request acknowledgment of the claim for priority and acknowledgment of receipt of the priority document. The priority document was filed on January 5, 2005. A copy of the date-stamped mailroom receipt is enclosed as evidence of receipt of the document by the Patent Office.

Drawings

Applicants request clarification as to whether the drawings have been accepted or objected to by the Examiner. In the Office Action mailed on October 6, 2004, the initial box on line 10 was checked but neither box "a" (accepted) nor box "b" (objected to) was checked.

35 U.S.C. §103

Claims 1-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Brendel et al (U.S. Patent No. 5,774,660) in view of Agrawal et al (U.S. Patent No. 6,606,661. These rejections are traversed as follows.

The present invention, as defined in claim 1, is directed to a load balancer having means for estimating, based on header information and contents of request

data, processing load resulting from execution by servers. The load balancer also

includes means for storing totals of the load estimates over a fixed past period for

each of the servers. In addition, the load balancer includes means for dynamically

selecting a server to which the request data is to be sent based on estimates of

processing load on the servers resulting from the current request data and total load

for the servers.

Neither Brendel et al nor Agrawal et al disclose these features of the presently

claimed invention. For example, Brendel et al disclose that a load balancer waits until

a browser sends a URL which indicates which file or resource is requested. Once

the URL request is received, the load balancer parses the URL to determine which

resource is being requested. Based on the resource requested from parsing the

URL, the load balancer determines which servers are best suited to serve the

request. Then, the load balancer performs load balancing among the servers that

can serve the request (see column 11, lines 51-63 and column 12, lines 30-37).

While Brendel et al may disclose finding the least busy server based on

parsing the URL, Brendel et al clearly do not disclose a load balancer having means

for storing totals of load estimates over a fixed past period and means for

dynamically selecting a server based upon the totals of load estimates over a fixed

past period. The deficiencies in Brendel et al are not overcome by resort to Agrawal

. et al. Agrawal et al disclose a method of permitting connections between a server

and a client to persist for a duration equal to a timer value. The server estimates the

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load on the server and uses this estimate to modify the timer value based on the current measured load (see abstract and column 2, lines 28-42). However, such disclosure fails to cure the deficiencies pointed out above with respect to Brendel et al.

Independent claims 5 and 8 recite measuring processing load on the server associated with a request and generating data used to estimate, using the measurement results, the resulting server load. For example, the data used to estimate server load are generated by the measurement results and stored in a load estimation table 103 (see Fig. 1) and are used to calculate load evaluation values L (see Fig. 9). As mentioned before, neither Brendel et al nor Agrawal et al disclose the feature of generating data used to estimate server load based upon measurement results.

Finally, independent claims 9 and 10 are directed to a method and computer-readable storage medium storing a program that include limitations corresponding to the ones mentioned above with respect to claim 1. Therefore, for the same reasons asserted for patentability of claim 1, claims 9 and 10 are also patentable.

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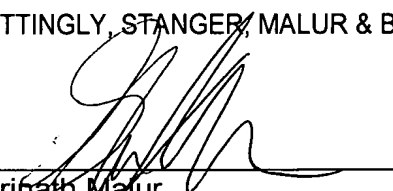Reply to Office Action of July 13, 2005

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Conclusion

In view of the foregoing, Applicants respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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